

Template Clauses in the [Provisional/Formal Agreement] for Sale and Purchase
For Payment Arrangements for Property Transactions – Sale & Purchase Scenario¹

The parties agree to the following additional terms and conditions if the parties agree to adopt PAPT for S&P (as defined below) in this sale and purchase Provided Always the following terms and the terms hereof shall not be incorporated in nor form part of the formal agreement for sale and purchase (or if already incorporated, shall cease to be effective) if any party has elected to withdraw its agreement to adopt PAPT for S&P either at the time of signing of the formal agreement for sale and purchase or pursuant to either of the BMI-Buyer Contract (as defined below) or the Appointee Bank-Seller Contract (as defined below) on or before 5 Business Days before the completion date.

1. The Buyer and the Seller agree that the Buyer may discharge its obligation to pay the balance of the purchase price on completion in the following manner:
 - (a) Subject to Clause 2, if the Buyer obtains a mortgage loan from a Bank (“**BMI**”), by way of (i) the BMI transferring the net mortgage loan amount (“**BMI Funds**”) to the Seller’s existing mortgagee (“**SMI**”) (*or if there is no existing mortgage over the Property, the SAM (as defined below)*) via CHATS (*or if the BMI and the SMI or the SAM are the same entity, internal fund transfer*) in payment or part payment of the balance of the purchase price and (ii) the BMI providing the CHATS Advice or (*as the case may be*) the Bank Advice in respect of such transfer to the Seller’s solicitors and to be held by the SMI or the SAM upon the terms and conditions of the T&C (as defined below) (such payment arrangement being “**PAPT for S&P**”); and
 - (b) By way of cashier’s order and/or solicitors’ cheque(s) in case the BMI Funds fall short of the balance of the purchase price payable on completion.
2. Both the Buyer and the Seller agree that the adoption of PAPT for S&P is subject to the following conditions (the “**Conditions**”):
 - (a) the Buyer having signed the BMI-Buyer Contract and delivered it to the BMI and the Seller having signed the Appointee Bank-Seller Contract and delivered it to the SMI (*or if there is no existing mortgage over the Property, the SAM*) in respect of this sale and purchase, by which each of the Buyer and the Seller confirms (among others) its agreement to the T&C for this sale and purchase; and
 - (b) the following consents having been obtained no later than [●] Business Days prior

¹ Mandatory terms to be incorporated in all PSPAs and FSPAs adopting PAPT for S&P.

to the completion date:

- (i) the Buyer shall first obtain the consent of the BMI to adopt PAPT for S&P in this sale and purchase; and
 - (ii) if the BMI consents, the Seller shall obtain the consent of the SMI (*or if there is no existing mortgage over the Property, the SAM*) to adopt PAPT for S&P in this sale and purchase.
- 3. For the avoidance of doubt, if (i) the Conditions have not been satisfied in accordance with Clause 2, or (ii) the parties do not use PAPT for S&P as the method of settlement on completion for any other reason:
 - (a) the Buyer shall discharge its obligation to pay the purchase price by way of cashier's order and/or solicitors' cheque; and
 - (b) the parties acknowledge that they shall not by reason of a change in the method of settlement seek to rescind the sale and purchase of the Property.
- 4. If PAPT for S&P is adopted in this sale and purchase, the Seller through its solicitors shall be entitled, by giving the Buyer or its solicitors at least [two] Business Days' prior notice in writing, to require the Buyer to split payment in respect of the balance of the purchase price (if any) less the BMI Funds and deliver to the Seller's solicitors one or more cashier's order(s) and/or solicitors' cheque(s) issued in favour of the person(s) or party/parties entitled to such payment(s).
- 5. *[Conveyancing Scenario 1- Contract completion note: when there is an existing Seller's Mortgage to be discharged. Delete as appropriate.]*

On completion, the Buyer shall give directions as to the following:

- (a) The BMI shall transfer the BMI Funds to the SMI via CHATS or (*as the case may be*) internal fund transfer before 12 noon. Such payment of the BMI Funds by the BMI to the SMI shall be evidenced by the CHATS Advice or (*as the case may be*) the Bank Advice that is issued to the BMI following such payment;
- (b) The Buyer's solicitors shall deliver to the Seller's solicitors by [5:00pm]² or such other earlier time as agreed between the parties:
 - (i) the CHATS Advice or (*as the case may be*) the Bank Advice;

² The parties must ensure that the time to be agreed is sufficient for CHATS Advice to reach the SMI / SAM by 5:30 pm. Please consult the solicitors acting for you.

- (ii) cashier's order(s) or solicitors' cheque(s) in respect of the balance of the purchase price less the BMI Funds (if any); and
- (iii) the amount of Fees and Expenses (if applicable).

OR

5. *[Conveyancing Scenario 2: Contract completion note: when there is no existing Seller's Mortgage. Delete as appropriate.]*

The Seller shall designate a HKD account at a Bank in Hong Kong, which serves as the SAM, for receiving the BMI Funds. On completion, the Buyer shall give directions as to the following:

- (a) The Buyer shall give directions to the BMI to transfer the BMI Funds to the SAM via CHATS or *(as the case may be)* internal fund transfer before 12 noon. Such payment of the BMI Funds by the BMI to the SAM shall be evidenced by the CHATS Advice or *(as the case may be)* the Bank Advice issued to the BMI following such payment;
- (b) The Buyer's solicitors shall deliver to the Seller's solicitors by 5:00pm³ or such other earlier time as agreed between the parties:
 - (i) the CHATS Advice or *(as the case may be)* the Bank Advice; and
 - (ii) cashier's order(s) or solicitors' cheque(s) in respect of the balance of the purchase price less the BMI Funds (if any); and
 - (iii) the amount of Fees and Expenses (if applicable).

6. The Seller acknowledges and agrees that:

- (a) (if there is an existing Seller's Mortgage over the Property) any surplus of the BMI Funds after deduction of the redemption money for discharging the existing mortgage on completion ("**Surplus**") will be released by the SMI to the Seller by the End of the completion date (but the actual date of the Seller receiving cleared funds will be subject always to the completion of the Relevant Checks) to a Seller's bank account in Hong Kong;
- (b) (if there is no existing Seller's Mortgage over the Property) the BMI Funds will be released by the SAM to the Seller by the End of the completion date (but the actual

³ In contrast to Conveyancing Scenario 1, this will not need to be moved to an earlier time of the completion date as the SAM is not expected to have its own solicitors.

date of the Seller receiving cleared funds will be subject always to the completion of the Relevant Checks) to a Seller's bank account in Hong Kong;

- (c) the Buyer shall have fulfilled his obligations for payment of such part of the balance of the purchase price, which is the BMI Funds upon physical delivery of the CHATS Advice or (*as the case may be*) the Bank Advice to the Seller's solicitor (but the actual date of the Seller receiving cleared funds will be subject always to the completion of the Relevant Checks);
 - (d) the Seller shall be deemed to have acknowledged receipt of the full balance of purchase price on completion, upon receipt by the Seller's solicitors of (i) the CHATS Advice or (*as the case may be*) the Bank Advice (in respect of the BMI Funds); and (ii) the Buyer's cashier's order(s) or solicitors' cheque(s) in favour of such party(ies) and in such amount as directed by the Seller's solicitors (in respect of the balance of the purchase price less the BMI Funds (if any)) (but the actual date of the Seller receiving cleared funds will be subject always to the Relevant Checks); and
 - (e) in the event that any Surplus (*in the case where there is an existing mortgage*) or the BMI Funds (*in the case where there is no existing mortgage*) is payable to the Seller's bank account, there shall be no more than one account of the Seller for receiving such moneys.
7. The CHATS Advice may be corrected to the extent that the redemption reference quoted therein is incorrect. The parties agree that the BMI shall be entitled to issue a CHATS Advice Correction Notice to correct the redemption reference in the CHATS Advice addressed to the SMI or (*as the case may be*) the SAM with a copy provided to the BMI's solicitors and the SMI's solicitors (*or the Seller's solicitors, whichever applicable*), stating the correct information. A CHATS Advice that has been duly corrected with a CHATS Advice Correction Notice in such manner shall be deemed a CHATS Advice for the purpose of this sale and purchase.
8. The Seller shall give directions to his solicitors, after receiving the CHATS Advice or (*as the case may be*) the Bank Advice from the Buyer's solicitors, to promptly provide the same to the SMI or (*as the case may be*) the SAM, and in any event no later than such time as may be required by the SMI or the SAM. The Buyer shall not be held liable for any failure or delay in the Seller receiving the Surplus or (*as the case may be*) the BMI Funds as a result of the Seller's solicitors not delivering the CHATS Advice or the Bank Advice as aforesaid or any delay caused by the SMI or the SAM.
9. If the BMI has effected transfer of the BMI Funds to the SMI or (*as the case may*

be) the SAM via CHATS but the BMI does not receive the CHATS Advice after initiating such transfer, the Seller and the Buyer acknowledge and agree that:

- (a) the BMI may promptly arrange for the re-issuance of the CHATS Advice and use such re-issued CHATS Advice for the purpose of discharging the Buyer's obligation to pay the balance of the purchase price on completion in accordance with Clause 1(a); and
 - (b) provided that the BMI has promptly arranged for re-issuance of the CHATS Advice but is unable to receive any re-issued CHATS Advice, it may request the SMI (*or if there is no existing mortgage over the Property, the SAM*) to confirm whether it has received the BMI Funds from the BMI. If the SMI or the SAM is able to identify the receipt of the BMI Funds, it may issue a written confirmation to the BMI confirming receipt of the BMI Funds and such confirmation shall replace the CHATS Advice for the purpose of discharging the Buyer's obligation to pay the balance of the purchase price on completion in accordance with Clause 1(a). All references to the CHATS Advice in the foregoing paragraphs shall then be replaced by such written confirmation by the SMI or (*as the case may be*) the SAM issued to the BMI in such circumstances.
10. If the completion date falls on a day on which a CHATS Failure takes place at any time between 9:00am and [11:00am]:
- (a) such completion date shall automatically be postponed to the next business day on which no CHATS Failure has occurred between 9:00am and [11:00am] (**"Rescheduled Completion Date"**); and
 - (b) on the Rescheduled Completion Date, the Buyer and the Seller shall use PAPT for S&P as the method of settlement in accordance with Clause [5].
11. Each of the Seller and the Buyer acknowledges and agrees that where there is any inconsistency between the additional terms and conditions set out in Clauses [1] to [11] (**"Additional Terms"**) and any other terms in the agreement for this sale and purchase, the Additional Terms shall prevail.

[Additional Defined Terms]

"Additional Terms" has the meaning given to it in Clause [11].

“Appointee Bank-Seller Contract” means an agreement in respect of this sale and purchase transaction adopting PAPT for S&P signed by the Seller and addressed to the SMI or (*as the case may be*) the SAM, which incorporates the terms of the T&C.

“Bank(s)” means a company which holds a valid banking licence, as defined in the Banking Ordinance (Cap. 155).

“Bank Advice” means a document issued by a Bank in respect of the completion of an internal fund transfer.

“BMI” has the meaning given to it in Clause [1(a)].

“BMI Funds” has the meaning given to it in Clause [1(a)].

“Business Day” means Monday to Friday excluding Saturday, Sunday and general holidays in the General Holidays Ordinance, Cap. 149 of the Laws of Hong Kong.

“BMI-Buyer Contract” means an agreement in respect of this sale and purchase transaction adopting PAPT for S&P signed by the Buyer and addressed to the BMI, which incorporates the terms of the T&C.

“Conditions” has the meaning given to it in Clause [2].

“CHATS” means Hong Kong Dollar Clearing House Automated Transfer System.

“CHATS Advice” means a document in a format that is printable by the BMI only, which is issued automatically by Hong Kong Interbank Clearing Limited to BMI on the CHATS interface immediately after a payee receives payment in its settlement account from a payor via CHATS.

“CHATS Failure” means a system failure of CHATS which prevents the BMI from making remittance or transfer to the SMI or (*as the case may be*) the SAM via CHATS.

“End of the completion date” means 11:59pm on the completion date.

“Fees and Expenses” means fees and expenses agreed to be settled between the Buyer and the Seller, including but not limited to rental deposit, utilities deposit, management fee, or stakeholders' money such as renovation money (if applicable).

“PAPT for S&P” has the meaning given to it in Clause [1(a)].

“Relevant Checks” means any customary screening in respect of funds received by the SMI or (*as the case may be*) the SAM in compliance with the internal policy of the relevant Bank and all applicable laws and regulations.

“Seller’s Account Maintainer” means a Bank that provides mortgage services for the purpose of receiving BMI Funds and is a participating institution of CHATS.

“SMI” has the meaning given to it in Clause [1(a)].

“Surplus” has the meaning given to it in Clause [6].

“T&C” means “Terms and Conditions in relation to the operation of PAPT” as referred to in each of the BMI-Buyer Contract and the Appointee Bank-Seller Contract.